HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.5730 of 2007

Dated:22.03.2007

Between:

SK.Fareed.

…Petitioner

and

The Deputy Commissioner and others.

…Respondents

HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.5730 of 2007

ORDER:

The petition allegations are as follows. The father of the petitioner was employee of Singareni Collieries Company Limited. In 1960 the said Company invited interested persons to start business to meet the daily needs of the employees of the Company. The petitioner constructed a mulgi on the land allegedly belonging to the third respondent, bearing No.5-8-151, M.G.Road, Kothagudem, and doing business for the last four decades. He is allegedly paying the rents to the third respondent herein. He alleges that the Temple is a registered Institution, and the petitioner is permanent tenant of the Temple. In 2003 the rent was enhanced by mutual consent to Rs.1200/- per month from 01.01.2003. Again in January 2006 when the third respondent agreed to extend the lease for three years on enhancement of rent, the petitioner submitted a representation on 25.05.2006 seeking renewal of lease for five years. No orders were passed thereon. However, the petitioner received a notice dated 08.02.2007 from the first respondent to show cause as to why encroachment made should not be removed. Aggrieved by the said notice, the present Writ Petition is filed.

After hearing the learned Counsel for the petitioner and the learned Assistant Government Pleader for Endowments, this Court

holds that the Writ Petition is not maintainable. It is well settled that against a show cause notice or a notice of enquiry, ordinarily, a Writ Petition would not lie. A perusal of the impugned order would show that it is the notice issued under Section 83(2) of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act'). Section 83 of the Act contains the procedure for eviction of encroachers of Temple properties. No encroacher can be evicted from the Temple properties unless a notice is served under Section 83(2) of the Act. Therefore, the impugned notice is in compliance with the statute and cannot be faulted. The petitioner is given liberty to approach the first respondent and raise all his defenses by filing appropriate counter/reply before the first respondent.

The Writ Petition, with the above observations, is accordingly dismissed. No costs.

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(V.V.S.RAO, J)

22.03.2007

Note: Issue C.C in one week.

B/o.

vs